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DRAFTED BY EB/OT/TA:DGRIMMER:LV

APPROVED BY EB/OT/TA:WGBARRACLOUGH

STR:CYEUTTER

USDA:RANDERSON

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TAGS: ETRD, GATT, CA

SUBJECT: CANADIAN IMPORT RESTRICTIONS ON EGGS

1. REPRESENTATIVES OF WASHINGTON AGENCIES YEUTTER (STR), GLITMAN (STATE), BELL (USDA), RAY (TREASURY), MET ON AUGUST 6 WITH CANADIAN DELEGATION LED BY TOM BURNS, ASSISTANT DEPUTY MINISTER, INTERNATIONAL TRADE RELATIONS TO DISCUSS CANADIAN EGG QUOTAS. BURNS OPENED SESSION WITH REQUEST FOR CLARIFICATION CONCERNING US OBJECTIVES IN EGG CONTRO-
VERSY, ASKING WHETHER WE WERE ATTEMPTING TO ENSURE FAIR
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ACCESS FOR US EGG PRODUCERS TO THE CANADIAN MARKET OR RATHER

THE COMPLETE DISMANTLING OF CANADIAN SUPPLY MANAGEMENT SYSTEM. IF THE LATTER, BURNS SUGGESTED US EFFORTS WOULD BE BETTER DIRECTED TO THE MTN AS HE VIEWED THE CANADIAN SYSTEM AS CLEARLY LEGAL UNDER GATT ARTICLE XI.

2. YEUTTER RESPONDED OUTLINING US PREFERENCE FOR OPEN BORDERS AND FREE TRADE BETWEEN THE TWO COUNTRIES. HE EXPLAIN THE US IS NOT TRYING TO DENY CANADA'S RIGHT TO MANAGE SUPPLY OF EGGS OR ITS MARKET, BUT THE US HAS SERIOUS DOUBTS ABOUT THE LEGALITY OF THIS CANADIAN SYSTEM UNDER GATT ARTICLE XI. HE ADVISED THE GOC OF US INTENTION TO SEEK A GATT ADVISORY OPINION THROUGH ARTICLE XXII ON THIS MATTER AT AN EARLY DATE AND EXPRESSED HOPE THAT THE GOC COULD JOIN THE US IN THIS REQUEST SINCE A GATT DECISION WOULD BE IN THE INTEREST OF BOTH COUNTRIES. OUR IMMEDIATE CONCERN, HOWEVER, WAS THE RECENT FILING OF TWO PETITIONS ALLEGING UNFAIR TRADE PRACTICES UNDER SECTION 301 OF THE TRADE ACT. YEUTTER NOTED THAT PUBLICATION OF THE PETITIONS IN THE FEDERAL REGISTER WAS IMMINENT (PROBABLY SATURDAY, AUGUST 9). STR WAS REQUIRED UNDER THE LAW TO PROCEED SECTION 301 WITH SECTION 301 ACTION IN THE ABSENCE OF WITHDRAWAL OF THE PETITIONS WHICH HE DOUBTED WOULD OCCUR UNLESS CANADIAN IMPORT RESTRICTIONS ARE REMOVED. SINCE NEITHER PETITION REQUESTED PUBLIC HEARINGS AND GOC HAD INDICATED A PREFERENCE TO AVOID A PUBLIC DEBATE OVER THE ISSUE, OUR INTENTION IS TO TAKE WRITTEN VIEWS AND COMMENTS RATHER THAN HOLD A PUBLIC HEARING.

3. IN RESPONSE BURNS STRESSED GOC CONFIDENCE THAT ITS MARKETING PROGRAMS WERE CONSISTENT WITH GATT AND JUDGED THAT THE GOC WOULD WELCOME A GATT ADVISORY OPINION ON THE MATTER. WHETHER IT DECIDED TO JOIN THE US OR NOT WOULD HAVE TO BE TAKEN UP WITH MINISTERS. HOWEVER, HE EXPRESSED SERIOUS RESERVATIONS ABOUT THE SECTION 301 ACTION. UNILATERAL CONSIDERATION BY THE US OF A MATTER AFFECTING INTERNATIONAL TRADE OBLIGATIONS, PARTICULARLY IF A DECISION ON THE MATTER IS PENDING IN THE GATT, HE JUDGED AS UNFORTUNATE AND DAMAGING THE POSSIBILITY OF ARRIVING AT A RESOLUTION THROUGH BILATERAL CONSULTATIONS. SOME IN THE GOC AND THE CANADIAN PUBLIC WOULD VIEW THE CONSULTATIONS AS OCCURRING UNDER LIMITED OFFICIAL USE

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DURESS. HE FEARED THE MATTER COULD DEGENERATE INTO A TRADE WAR WHICH WOULD BE REGRETTABLE IN VIEW OF THE SLIGHT AMOUNT OF TRADE INVOLVED AND THE US/CANADIAN AGREEMENT DURING THE TRUDEAU VISIT TO SEEK TO RESOLVE PROBLEMS SUCH AS THESE.

4. GLITMAN RESPONDED CAUTIONING THE GOC NOT TO PREJUDGE THE SECTION 301 ACTIONS BY ASSUMING THAT THE ADMINISTRATION VIEW WAS NECESSARILY IDENTICAL WITH THAT OF THE PETITIONERS

YEUTTER EXPLAINED THAT ONCE A 301 PETITION WAS FILED BY AN INTERESTED PARTY THE USG WAS OBLIGED TO PROCESS IT IN A TIMELY FASHION. YEUTTER NOTED THIS PROCEDURE WAS LIKELY TO TAKE 90 TO 120 DAYS. WHILE IT WOULD BE PREFERABLE TO HAVE A GATT DECISION ON THE MATTER FIRST, THE NORMAL GATT TIMEFRAME MIGHT MAKE A TIMELY DECISION DIFFICULT. SINCE WE SHOULD TRY TO GET THE GATT TO ACT AS QUICKLY AS POSSIBLE WE PLAN TO MAKE A REQUEST FOR THE ADVISORY OPINION EARLY THIS WEEK, AND HOPE THE GOC CAN INFORM US OF THEIR DECISION TO JOIN US BY THAT TIME.

5. ON EXPORT CONTROLS, WE NOTED THAT US PRODUCERS ARE CONCERNED ABOUT THE LEVEL OF CANADIAN EXPORTS INTO THE US, BUT WE STRESSED THAT OUR PRIMARY INTEREST IS REMOVING CONSTRAINTS ON US EXPORTS TO CANADA. YEUTTER ASKED WHY THE GOC COULD NOT SET A QUOTA WHICH WOULD (IF COMPLETE REMOVAL IS IMPOSSIBLE FOR GOC) IN EFFECT BE THE EQUIVALENT OF FREE TRADE AND WOULD THEREFORE REFLECT THE NON-QUOTA PERIODS OF EGG TRADE IN 1974-1975 (ABOUT 250,000 CASES OF SHELL EGGS ON A YEARLY BASIS). HE POINTED OUT THAT THIS WAS A NOMINAL QUANTITY WHEN COMPARED TO CANADIAN PRODUCTION OF ABOUT 16,000,000 CASES A YEAR. WE ALLOWED THAT HIGHER US EXPORTS TO CANADA COULD LOGICALLY LEAD TO HIGHER CANADIAN EXPORTS TO THE US. FINALLY WE NOTED THAT ANY IMPROVEMENT IN THE CANADIAN SYSTEM WOULD, OF COURSE, BE TAKEN INTO CONSIDERATION IN THE 301 CASE. BURNS RESPONDED THAT 250,000 CASES OF SHELL EGGS WAS "OUT OF THE BALLPARK" HE HAD COME PREPARED TO DISCUSS AS WAS COMPLETE REMOVAL OF THE IMPORT QUOTAS.

6. AT THE CONCLUSION OF THE MEETING THE FOLLOWING POINTS WERE AGREED:

(A) THAT A REQUEST FOR AN ADVISORY OPINION UNDER GATT LIMITED OFFICIAL USE

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ARTICLE XXII WOULD CONCERN THE CONFORMITY OF THE CANADIAN SUPPLY MANAGEMENT SYSTEM TO THE CRITERIA OF ARTICLE XI AND, ASSUMING THE SYSTEM WAS IN CONFORMITY, WHETHER THE BASIS FOR DETERMINING THE QUOTA WAS REASONABLE. THE QUESTION OF ANY NULLIFICATION OR IMPAIRMENT OWING TO THE QUOTA WOULD BE LEFT TO A LATER STAGE.

(B) NEITHER THE SECTION 301 PROCEDURES NOR THE GATT REQUEST PRECLUDE CONTINUING DISCUSSIONS BILATERALLY AND THE POSSIBILITY OF AN AGREEMENT WHICH MIGHT RESOLVE THE ISSUE AND IN EFFECT OVERTAKE THE SECTION 301 QUESTION. THERE WILL BE A 45 DAY PERIOD, HOWEVER, IN WHICH THE US WILL BE TAKING EVIDENCE UNDER THE SECTION 301 PROCEDURES AND IT WOULD BE INAPPROPRIATE TO HOLD THE NEXT FORMAL ROUND OF DISCUSSIONS UNTIL AFTER THIS PERIOD HAS ENDED.

(C) BOTH SIDES WILL DO THEIR BEST TO MAINTAIN A LOW PROFILE ON THIS ISSUE. THE US AGREED TO STATE, SHOULD QUESTIONS BE ASKED, THAT WE HAVE BEEN CONSULTING WITH THE GOC AND HOPE CONTINUED CONSULTATIONS LEAD TO A SOLUTION TO THE PROBLEM.

7. SINCE USG NEEDS A RESPONSE FROM GOC ON OUR OFFER TO MAKE A JOINT REQUEST TO GATT FOR THE ADVISORY OPINION, EMBASSY IS REQUESTED TO BE ALERT TO COUNCIL OF MINISTERS DECISION ON THIS. KISSINGER

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